IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 801 of 1982

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT
and
Hon'ble MR.JUSTICE AKSHAY H.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

BAROT CHINUBHAI KHUMABHAI

Versus

SPL. LAND ACQUISITION OFFICER

Appearance:

1. First Appeal No. 801 of 1982

MR NN PRAJAPATI for Petitioners No. 1-7

MR AD OZA, GP for Respondent No. 2

MR RAJNI H MEHTA for Respondent No. 1 and 3

CORAM : MR.JUSTICE J.N.BHATT
and
MR.JUSTICE AKSHAY H.MEHTA

Date of decision: 11/10/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE J.N.BHATT)

1. It appears that since this matter though forming part of a group of matters decided by us, on 19/6/2001, in First Appeal No. 349 of 1982 and others, on account of death of one of the parties the appeal became unready at that time and, therefore, now matter is ready and is required to be decided in terms of our earlier judgment as the common questions and identical facts arising out of same notification, same project for the purpose of acquisition under the Land Acquisition Act, 1894 have arisen in this appeal and those aspects are no longer in controversy.

2. The appellants are the original claimants and owners of lands which came to be acquired by the same notification which was involved in the decision of six appeals referred hereinabove. The Land Acquisition Officer by his award dated 22/1/1979 fixed marked price of Rs.6/-, Rs.7/- and Rs.8/- per sq. mtr. u/S. 11 of the Act depending upon the type and quality of the lands, which upon being questioned on reference, the Reference Court raised the said amount of market price to Rs.10/- per sq. mtr. against the claim of the original claimants at the rate of Rs.25/- per sq. mtr. That is the reason why the original claimants have filed this appeal.

3. Since identical facts and common questions involved in this appeal and earlier six appeals which had been decided by us, as stated hereinabove and which is unquestionable, this appeal is squarely covered by earlier decision and, therefore, it would not detain us any longer to minutely diverge on other factual evidentiary part. The original claimants, appellants before us are therefore, entitled to the market price fixed by us in the earlier group of matters.

4. In the light of the earlier decision the market price or the value of the acquired land is enhanced and fixed at the rate of Rs.20/- per sq. mtr. instead of Rs.10/- per sq. mtr. fixed by the Reference Court against the claim of Rs.25/- made by the original claimants and appellants before us. Appeal is, therefore, required to be partly allowed and award is required to be modified to that extent.

5. Consequently appeal is partly allowed. Impugned award of the Reference Court on the same line as it was done in the earlier decision, shall stand modified as the claimants are entitled to market value or price at the

rate of Rs.20/- per sq. mtr., obviously over and above the direction about the statutory benefit conferred and given under the award of the Reference Court. Appeal shall, therefore, stand partly allowed. Pursuant to the submission of the learned advocate for the appellant, the respondent no. 3 - Acquiring Authority is directed to pay the due and payable amounts to the original claimants as per this judgment within a period of three months.

[J.N. BHATT, J.]

[AKSHAY H. MEHTA,J.]

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